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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

ROBERT PEREZ,

Defendant and Appellant.

E071066

(Super.Ct.No. FSB18001814)

OPINION

APPEAL from the Superior Court of San Bernardino County. Richard V. Peel, Judge. Dismissed.

Michael C. Sampson, under appointment by the Court of Appeal, for Defendant and Appellant.

Xavier Becerra, Attorney General, Gerald A. Engler, Chief Assistant Attorney General, Julie L. Garland, Assistant Attorney General, Eric A. Swenson and Yvette M. Martinez, Deputy Attorneys General, for Plaintiff and Respondent.

## **FACTUAL AND PROCEDURAL HISTORY**

### **A. FACTUAL HISTORY**

The facts are not relevant to the issue on appeal.

### **B. PROCEDURAL HISTORY**

On May 11, 2018, a complaint charged defendant and appellant Robert Perez with taking a vehicle without consent under Vehicle Code section 10851, subdivision (a) (count 1); receiving stolen property under Penal Code section 496d (count 2); and evading a police officer under Vehicle Code section 2800.2, subdivision (a) (count 3). As to each count, the complaint alleged that defendant committed the offense to benefit a criminal street gang under Penal Code section 186.22, subdivision (b)(1)(A).

On July 6, 2018, defendant pled no contest to count 3, evading a police officer. Defendant also admitted the gang enhancement. The court dismissed the remaining counts. On August 6, 2018, the trial court suspended pronouncement of judgment and placed defendant on probation for three years.

On August 6, 2018, defendant filed a timely notice of appeal. On September 24, 2018, defendant filed an amended notice of appeal and requested a certificate of probable cause. The trial court granted defendant's request on September 25, 2018.

## **DISCUSSION**

In his appellant's opening brief, defendant argues that a probation condition imposing a curfew on defendant was not valid because it was not related to the underlying offense, it restricted noncriminal conduct, and was not related to future criminality. In the respondent's brief, the People claim that "the issue raised on appeal is

moot and the appeal must be dismissed” because defendant has since been sentenced to prison. We agree with the People that the case must be dismissed.

It is well settled that this court’s duty is to issue opinions upon matters that could provide relief to the parties. Accordingly, when an event occurs that renders it impossible for this court, if it should decide the case in favor of the appellant, to grant any effectual relief, then the court will not proceed to a formal judgment, but will dismiss the appeal as moot. (*In re Sodersten* (2007) 146 Cal.App.4th 1163, 1217; see *In re Charles G.* (2004) 115 Cal.App.4th 608, 611 [termination of probation mooted appellant’s complaints regarding probation conditions].)

In this instant case, on November 7, 2018, defense counsel submitted a letter to this court informing us that on October 5, 2018, the trial court revoked defendant’s probation and sentenced him to a two-year term. The October 5, 2018, minute order was attached to defense counsel’s letter. Therefore, this court cannot provide defendant the relief he requests since he is no longer subject to the contested probation condition. Since it would be impossible for this court to grant defendant’s effectual relief, we dismiss his appeal as moot.

**DISPOSITION**

The appeal is dismissed.

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MILLER

Acting P. J.

We concur:

CODRINGTON

J.

RAPHAEL

J.